IN THE HIGH COURT OF JUDICATURE
ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE J.CHELAMESWAR
And
THE HON'BLE SRI JUSTICE D.APPA RAO

WP No. 20579 of 2006

Between :

M/s. Ravindra Solvent Oils
Pvt. Ltd., Auto Nagar, Vijayawada
Rep. by its Managing Director
D.Nagendra Babu .. Petitioner

And

Commercial Tax Officer,
Benz Circle, Vijayawada and
two others .. Respondents

WP No. 20583 of 2006

Between :

M/s. Ravindra Solvent Oils
Pvt. Ltd., Auto Nagar, Vijayawada
Rep. by its Managing Director
D.Nagendra Babu .. Petitioner

And

Joint Commissiner/CT (Legal),
O/o the Commissioner of Commercial
Taxes, Hyderabad and three others .. Respondents

Dated : 28th September, 2006

ORDER : (per JC,J)

These two writ petitions are filed by the same petitioner, a private limited company registered both under the APGST Act and Central Sales Tax Act. The petitioner-company is an assessee on the rolls of the 1st respondent engaged in the business of manufacture and sale of refined rice bran oil.

For the assessment year 2002-2003, the petitioner's liability under the CST Act came to be assessed by the 1st respondent by his order dated 16.5.2005. Aggrieved by the same, the petitioner carried the matter by way of appeal before the 2nd respondent – Appellate Deputy Commissioner/CT. The appeal was partly allowed and partly dismissed by his order dated 24.11.2005. The Joint Commissioner concerned in exercise of the power under Section 9(2) of the CST Act read with Section 20(2) of the APGST Act, 1957, revised the appellate order referred to above and thereby confirmed the assessment order. Aggrieved by the same, the petitioner carried the matter in appeal before the Sales Tax Appellate Tribunal. Apprehending that the application for stay of the recovery of the tax during the pendency of the appeal would not be entertained, the following writ petition is filed with the prayer as follows:

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> For the reasons stated in the accompanying affidavit, the petitioner herein prays that this Hon'ble Court may be pleased to issue any appropriate writ, order or direction more particularly a Writ of Mandamus and declare the action of the respondent in demanding the disputed tax from the petitioner pending disposal

> of the appeal filed by the petitioner before the Sales Tax Appellate Tribunal, Visakhapatnam Bench and grant the consequential relief by stay of collection of balance of disputed tax of Rs.59,77,585/- and issue any other writ, order or direction as this Hon'ble Court may pleased be to deem fit and proper.

Insofar as the assessment year 2003-04, a final assessment order was passed on 16.6.2005. The petitioner carried the matter in appeal before the Appellate Deputy Commissioner. Once again the appeal was partly allowed and partly dismissed. The petitioner carried the matter in a further appeal before the Sales Tax Appellate Tribunal. The matter is said to be pending before the Tribunal. Apprehending that the applications for stay would not be considered, the following writ petition is filed with the prayer as follows :

> **WP No. 20579 of 2006**
>
> For the reasons stated in the accompanying affidavit, the petitioner herein prays that this Hon'ble Court may be pleased to issue any appropriate writ, order or direction more particularly a Writ of Mandamus and declare the action of the respondent in demanding the disputed tax of Rs.45,47,102/- from the petitioner pending disposal of the appeal filed by the petitioner before the Sales Tax Appellate Tribunal, Visakhapatnam Bench and grant the consequential relief by stay of collection of balance of disputed tax of Rs.45,47,102/- and issue any other writ, order or direction as this Hon'ble Court may pleased be to deem fit and proper.

Heard the learned Government Pleader.

In the circumstances, we deem it appropriate to dispose of the writ petition at the admission stage directing the respondents not to take any coercive steps for the recovery of the tax due for both the above mentioned two assessment years on condition that the petitioner deposits 50% of the tax demanded in each of the writ petition within a period of six weeks from today. While computing the said amount of 50% mentioned above, the amount of tax if any paid already for the relevant assessment year shall be given credit to.

The writ petitions are accordingly disposed of.

(J.CHELAMESWAR, J)

(D.APPARAO, J)

28th September, 2006.

Knk